



February 23, 2007

SENATE BILL No. 525

DIGEST OF SB 525 (Updated February 20, 2007 1:31 pm - DI 113)

Citations Affected: IC 6-3.1; IC 8-1; noncode.

Synopsis: Indiana fueled energy investment tax credit. Creates the Indiana fueled energy investment tax credit for taxpayers that place a new energy production facility that utilizes Indiana fuel into service. Specifies that the total amount of Indiana fueled energy investment tax credits may not exceed \$50,000,000 for all taxpayers and all taxable years. Provides that the total amount of ethanol production tax credits for taxpayers that produce at least 40,000,000 gallons of cellulosic ethanol in a year may not exceed \$20,000,000 for all taxpayers for all taxable years. Provides that a taxpayer may not sell, assign, convey, or otherwise transfer an ethanol production tax credit. Specifies that for the proposed Indiana fueled energy investment tax credit and the existing coal gasification technology investment tax credit, the Indiana economic development corporation is required to enter into an agreement with an applicant for a credit only if the corporation decides to award a tax credit to the applicant.

Effective: July 1, 2007; January 1, 2008.

Hershman, Gard

January 23, 2007, read first time and referred to Committee on Utilities & Regulatory Affairs.

February 1, 2007, amended, reported favorably — Do Pass; reassigned to Committee on Tax and Fiscal Policy.

February 22, 2007, amended, reported favorably — Do Pass.

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SB 525—LS 7777/DI 92+



February 23, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 525

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.1-27-9.5, AS AMENDED BY P.L.122-2006,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2008]: Sec. 9.5. **Except as provided in**
4 **IC 6-3.1-28-11(c)**, the total amount of credits allowed under:

- 5 (1) section 8 of this chapter;
6 (2) section 9 of this chapter; and
7 (3) IC 6-3.1-28;

8 may not exceed fifty million dollars (\$50,000,000) for all taxpayers and
9 all taxable years beginning after December 31, 2004. The corporation
10 shall determine the maximum allowable amount for each type of credit,
11 which must be at least four million dollars (\$4,000,000) for each type
12 of credit.

13 SECTION 2. IC 6-3.1-28-9 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) If the amount of
15 the credit determined under this chapter for a taxpayer in a taxable year
16 exceeds the taxpayer's state tax liability for that taxable year, the
17 taxpayer may carry over the excess to the following taxable years. The

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amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit. **A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this chapter.**

SECTION 3. IC 6-3.1-28-11, AS AMENDED BY P.L.122-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 11. (a) **As used in this section, "cellulosic ethanol" means ethanol derived solely from lignocellulosic or hemicellulosic matter.**

(b) The corporation shall determine the maximum amount of credits that a taxpayer (or if the person producing the ethanol is a pass through entity, the shareholders, partners, or members of the pass through entity) is eligible to receive under this section. The total amount of credits allowed a taxpayer (or, if the person producing the ethanol is a pass through entity, the shareholders, partners, or members of the pass through entity) under this chapter may not exceed a total of the following amounts for all taxable years:

(1) Two million dollars (\$2,000,000) in the case of a taxpayer who produces at least forty million (40,000,000) but less than sixty million (60,000,000) gallons of **grain** ethanol in a taxable year.

(2) Three million dollars (\$3,000,000) in the case of a taxpayer who produces at least sixty million (60,000,000) gallons of **grain** ethanol in a taxable year.

(3) **Twenty million dollars (\$20,000,000) for all taxpayers for all taxable years, in the case of tax credits for a taxpayer who produces at least forty million (40,000,000) gallons of cellulosic ethanol in a taxable year.**

(c) **The total amount of tax credits allowed under this chapter for a taxpayer who produces at least forty million (40,000,000) gallons of cellulosic ethanol is not subject to the maximum amount of tax credits imposed by IC 6-3.1-27-9.5.**

SECTION 4. IC 6-3.1-29-15, AS AMENDED BY P.L.122-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) **If the corporation decides to award a tax credit under this chapter to a taxpayer, and** subject to section 16 of this chapter, the amount of the credit to which a taxpayer is entitled for a qualified investment in an integrated coal gasification powerplant is equal to the sum of the following:

(1) Ten percent (10%) of the taxpayer's qualified investment for

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the first five hundred million dollars (\$500,000,000) invested.

(2) Five percent (5%) of the amount of the taxpayer's qualified investment that exceeds five hundred million dollars (\$500,000,000) only if the facility is dedicated primarily to serving Indiana retail electric utility consumers.

(b) Subject to section 16 of this chapter, the amount of the credit to which a taxpayer is entitled for a qualified investment in a fluidized bed combustion technology is equal to the sum of the following:

(1) Seven percent (7%) of the taxpayer's qualified investment for the first five hundred million dollars (\$500,000,000) invested.

(2) Three percent (3%) of the amount of the taxpayer's qualified investment that exceeds five hundred million dollars (\$500,000,000).

SECTION 5. IC 6-3.1-29-19, AS AMENDED BY P.L.122-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) **If the corporation decides to award a tax credit under this chapter to an applicant**, the corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

(1) A detailed description of the project that is the subject of the agreement.

(2) The first taxable year for which the credit may be claimed.

(3) The maximum tax credit amount that will be allowed for each taxable year.

(4) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.

(5) If the facility is an integrated coal gasification powerplant, a requirement that the taxpayer shall pay an average wage to its employees at the integrated coal gasification powerplant, other than highly compensated employees, in each taxable year that a tax credit is available, that equals at least one hundred twenty-five percent (125%) of the average county wage in the county in which the integrated coal gasification powerplant is located.

(6) For a project involving a qualified investment in a coal gasification powerplant, a requirement that the taxpayer will maintain at the location where the qualified investment is made, during the term of the tax credit, a total payroll that is at least equal to the payroll that existed on the date that the taxpayer placed the integrated coal gasification powerplant into service.

(7) A requirement that:

(A) one hundred percent (100%) of the coal used:

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(i) at the integrated coal gasification powerplant, for a project involving a qualified investment in an integrated coal gasification powerplant; or

(ii) as fuel in a fluidized bed combustion unit, in a project involving a qualified investment in a fluidized bed combustion technology, if the unit is dedicated primarily to serving Indiana retail electric utility consumers;

must be Indiana coal; or

(B) seventy-five percent (75%) of the coal used as fuel in a fluidized bed combustion unit must be Indiana coal, in a project involving a qualified investment in a fluidized bed combustion technology, if the unit is not dedicated primarily to serving Indiana retail electric utility consumers.

(8) A requirement that the taxpayer obtain from the commission a determination under IC 8-1-8.5-2 that public convenience and necessity require, or will require:

(A) the construction of the taxpayer's integrated coal gasification powerplant, in the case of a project involving a qualified investment in an integrated coal gasification powerplant; or

(B) the installation of the taxpayer's fluidized bed combustion unit, in the case of a project involving a qualified investment in a fluidized bed combustion technology.

(b) A taxpayer must comply with the terms of the agreement described in subsection (a) to receive an annual installment of the tax credit awarded under this chapter. The corporation shall annually determine whether the taxpayer is in compliance with the agreement. If the corporation determines that the taxpayer is in compliance, the corporation shall issue a certificate of compliance to the taxpayer.

SECTION 6. IC 6-3.1-34 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]:

Chapter 34. Indiana Fueled Energy Investment Tax Credit

Sec. 1. As used in this chapter, "biomass" means any organic matter that is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes, including wood residues, forest thinnings, mill residue wood, clean construction and demolition waste (but excluding treated or painted lumber), animal wastes, municipal wastes, food wastes, and aquatic plants.

Sec. 2. As used in this chapter, "corporation" means the Indiana economic development corporation established by IC 5-28-3-1.

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1 **Sec. 3. As used in this chapter, "Indiana coal" has the meaning**
 2 **set forth in IC 4-4-30-4.**

3 **Sec. 4. As used in this chapter, "Indiana fuel" means either of**
 4 **the following:**

5 (1) **Any of the following when the fuel is gasified, liquefied, or**
 6 **methanized:**

7 (A) **Biomass produced in Indiana.**

8 (B) **Indiana coal.**

9 (C) **Petroleum coke produced in Indiana.**

10 (D) **Oil shale located in Indiana.**

11 (2) **Coal mine methane when used in the production of power.**

12 **Sec. 5. As used in this chapter, "office" means the office of**
 13 **energy and defense development.**

14 **Sec. 6. As used in this chapter, "qualified investment" means a**
 15 **taxpayer's expenditures for:**

16 (1) **all real and tangible personal property incorporated in**
 17 **and used as part of a facility used to produce energy from**
 18 **Indiana fuel; and**

19 (2) **transmission equipment and other real and personal**
 20 **property located at the site of the energy production facility**
 21 **that is employed specifically to serve the energy production**
 22 **facility.**

23 **Sec. 7. As used in this chapter, "pass through entity" means:**

24 (1) **a corporation that is exempt from the adjusted gross**
 25 **income tax under IC 6-3-2-2.8(2);**

26 (2) **a partnership;**

27 (3) **a limited liability company;**

28 (4) **a limited liability partnership;**

29 (5) **a corporation organized under IC 8-1-13; or**

30 (6) **a corporation organized under IC 23-17-1 that:**

31 (A) **is an electric cooperative; and**

32 (B) **has at least one (1) member that is a corporation**
 33 **organized under IC 8-1-13.**

34 **Sec. 8. As used in this chapter, "petroleum coke" means a**
 35 **carbonaceous solid derived from the process of refining oil.**

36 **Sec. 9. As used in this chapter, "state tax liability" means the**
 37 **taxpayer's total tax liability that is incurred under:**

38 (1) **IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);**

39 (2) **IC 27-1-18-2 (the insurance premiums tax);**

40 (3) **IC 6-5.5 (the financial institutions tax); and**

41 (4) **IC 6-2.3 (the utility receipts tax);**

42 **as computed after the application of the credits that, under**

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IC 6-3.1-1-2, are to be applied before the credit provided by this chapter.

Sec. 10. As used in this chapter, "taxpayer" means any person, corporation, limited liability company, partnership, or other entity that:

- (1) has any state tax liability;
- (2) makes a qualified investment.

Sec. 11. (a) A taxpayer that:

- (1) is awarded a tax credit under this chapter by the corporation; and
- (2) complies with the conditions set forth in this chapter and the agreement entered into by the corporation and the taxpayer under this chapter;

is entitled to a credit against the taxpayer's state tax liability for a taxable year in which the taxpayer places into service an energy production facility using Indiana fuel and for the taxable years provided in section 13 of this chapter.

(b) A tax credit awarded under this chapter must be applied against the taxpayer's state tax liability in the following order:

- (1) Against the taxpayer's liability incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax).
- (2) Against the taxpayer's liability incurred under IC 6-5.5 (the financial institutions tax).
- (3) Against the taxpayer's liability incurred under IC 27-1-18-2 (the insurance premiums tax).
- (4) Against the taxpayer's liability incurred under IC 6-2.3 (the utility receipts tax).

Sec. 12. (a) If the corporation decides to award a tax credit under this chapter to a taxpayer, the amount of the credit to which the taxpayer is entitled for a qualified investment is equal to the product of:

- (1) the amount of the taxpayer's qualified investment; multiplied by
- (2) ten percent (10%).

(b) The total amount of tax credits awarded under this chapter may not exceed fifty million dollars (\$50,000,000) for all taxpayers and all taxable years.

Sec. 13. (a) A credit awarded under section 11 of this chapter must be taken in ten (10) annual installments, beginning with the year in which the taxpayer places into service the taxpayer's energy production facility.

(b) The amount of an annual installment of the credit awarded

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under section 11 of this chapter is equal to the quotient of:

- (1) the credit amount determined under section 12 of this chapter; divided by
- (2) ten (10).

(c) If the credit allowed by this chapter is available to a member of an affiliated group of corporations filing a consolidated return under IC 6-2.3-6-5 or IC 6-3-4-14, the credit shall be applied against the state tax liability of the affiliated group.

Sec. 14. (a) If a pass through entity is entitled to a credit under this chapter but does not have state tax liability against which the credit may be applied, an individual who is a shareholder, partner, or member of the pass through entity is entitled to a credit equal to:

- (1) the credit determined for the pass through entity for the taxable year; multiplied by
- (2) in the case of a pass through entity described in:
 - (A) section 7(1), 7(2), 7(3), or 7(4) of this chapter, the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled; or
 - (B) section 7(5) or 7(6) of this chapter, the relative percentage of the corporation's patronage dividends allocable to the member for the taxable year.

(b) The credit provided under subsection (a) is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and an individual who is a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same qualified investment.

Sec. 15. The amount of a credit claimed under this chapter may not exceed a qualified taxpayer's state tax liability. A taxpayer is not entitled to a carryback, carryover, or refund of an unused credit.

Sec. 16. A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this chapter.

Sec. 17. (a) A taxpayer that proposes to place a new energy production facility utilizing Indiana fuel into service may apply to the corporation before the taxpayer makes the qualified investment to enter into an agreement for a tax credit under this chapter. The corporation shall prescribe the form of the application.

(b) The office shall provide any technical assistance requested by the corporation in the administration of this chapter.

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1 Sec. 18. After receipt of an application, the corporation may
2 enter into an agreement with the applicant for a credit under this
3 chapter if the corporation determines that the taxpayer's proposed
4 investment satisfies the requirements of this chapter.

5 Sec. 19. (a) If the corporation decides to award a tax credit
6 under this chapter to an applicant, the corporation shall enter into
7 an agreement with the applicant. The agreement must include all
8 the following:

9 (1) A detailed description of the project that is the subject of
10 the agreement.

11 (2) The first taxable year for which the credit may be claimed.

12 (3) The amount of the tax credit that, subject to section 15 of
13 this chapter, will be allowed for each taxable year.

14 (4) A requirement that the taxpayer shall maintain operations
15 at the project location for at least ten (10) years during the
16 term that the tax credit is available.

17 (5) A requirement that the taxpayer shall pay an average
18 wage to its employees at the energy production facility, other
19 than highly compensated employees, in each taxable year that
20 a tax credit is available, that equals at least one hundred
21 twenty-five percent (125%) of the average county wage in the
22 county in which the energy production facility is located.

23 (6) A requirement that the taxpayer will maintain at the
24 location where the qualified investment is made, during the
25 term of the tax credit, a total payroll that is at least equal to
26 the payroll that existed on the date that the taxpayer placed
27 the energy production facility into service.

28 (7) A requirement that one hundred percent (100%) of the
29 fuel used at the energy production facility must be Indiana
30 fuel.

31 (8) A requirement that the energy production facility will
32 comply with any energy efficiency or emission standard
33 recommended by the office and imposed by the corporation.

34 (b) A taxpayer must comply with the terms of the agreement
35 described in subsection (a) to receive an annual installment of the
36 tax credit awarded under this chapter. The corporation shall
37 annually determine whether the taxpayer is in compliance with the
38 agreement. If the corporation determines that the taxpayer is in
39 compliance, the corporation shall issue a certificate of compliance
40 to the taxpayer.

41 Sec. 20. To receive the credit awarded by this chapter, a
42 taxpayer must claim the credit on the taxpayer's annual state tax

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1 return or returns in the manner prescribed by the department. The
 2 taxpayer shall submit to the department a copy of the taxpayer's
 3 certificate of compliance issued under section 19 of this chapter,
 4 and all information that the department determines is necessary
 5 for the calculation of the credit provided by this chapter.

6 SECTION 7. IC 8-1-8.8-10 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) As used in this
 8 chapter, "renewable energy resources" means alternative sources of
 9 renewable energy, including the following:

- 10 (1) Energy from wind.
- 11 (2) Solar energy.
- 12 (3) Photovoltaic cells and panels.
- 13 (4) Dedicated crops grown for energy production.
- 14 (5) ~~Organic waste~~ Biomass (as defined by IC 6-3.1-34-1).
- 15 (6) Hydropower from existing dams.
- 16 (7) Fuel cells.
- 17 (8) Energy from waste to energy facilities producing steam not
- 18 used for the production of electricity.

19 (b) Except for energy described in subsection (a)(8), the term does
 20 not include energy from the incinerations, burning, or heating of any of
 21 the following:

- 22 (1) Waste wood.
- 23 (2) Tires.
- 24 (3) General household, institutional, commercial, industrial
- 25 lunchroom, office, or landscape waste.
- 26 (4) Construction or demolition debris.

27 SECTION 8. [EFFECTIVE JANUARY 1, 2008] (a) IC 6-3.1-28-11,
 28 as amended by this act, applies to taxable years beginning after
 29 December 31, 2007.

30 (b) IC 6-3.1-34, as added by this act, applies to taxable years
 31 beginning after December 31, 2007.

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SENATE MOTION

Madam President: I move that Senator Gard be added as second author of Senate Bill 525.

HERSHMAN

 COMMITTEE REPORT

Madam President: The Senate Committee on Utilities and Regulatory Affairs, to which was referred Senate Bill No. 525, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-3.1-27-9.5, AS AMENDED BY P.L.122-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 9.5. **Except as provided in IC 6-3.1-28-11(c)**, the total amount of credits allowed under:

- (1) section 8 of this chapter;
- (2) section 9 of this chapter; and
- (3) IC 6-3.1-28;

may not exceed fifty million dollars (\$50,000,000) for all taxpayers and all taxable years beginning after December 31, 2004. The corporation shall determine the maximum allowable amount for each type of credit, which must be at least four million dollars (\$4,000,000) for each type of credit."

Page 2, between lines 6 and 7, begin a new paragraph and insert:

"(c) The total amount of tax credits allowed under this chapter for a taxpayer who produces at least forty million (40,000,000) gallons of cellulosic ethanol is not subject to the maximum amount of tax credits imposed by IC 6-3.1-27-9.5."

Page 3, line 32, after "12." insert "(a)".

Page 3, between lines 34 and 35, begin a new paragraph and insert:

"(b) To receive a credit under this chapter, a taxpayer must have the amount of the taxpayer's expenditures for energy star heating and cooling equipment certified by the office of energy and defense development. The office of energy and defense development may not certify the amount of an expenditure if the certification would result in the amount of tax credits awarded under this chapter exceeding the amount of tax credits permitted

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under subsection (a).

Sec. 13. The office of energy and defense development shall implement procedures for issuing the certifications required under section 12 of this chapter."

Page 3, line 35, delete "13." and insert "14."

Page 4, delete lines 3 through 12.

Page 4, line 13, delete "3." and insert "1."

Page 4, line 17, delete "4." and insert "2."

Page 4, line 23, delete "5." and insert "3."

Page 4, delete line 25.

Page 4, line 26, delete "(2)" and insert "(1)".

Page 4, line 27, delete "(3)" and insert "(2)".

Page 4, line 28, delete "6." and insert "4."

Page 4, line 36, delete "7." and insert "5."

Page 4, line 36, delete "section," and insert "chapter,".

Page 4, line 41, delete "8." and insert "6."

Page 5, line 2, delete "9." and insert "7."

Page 5, line 4, delete "13" and insert "11".

Page 5, delete lines 19 through 34.

Page 5, line 35, delete "(c)" and insert "(b)".

Page 5, line 36, delete "13" and insert "11".

Page 6, line 8, delete "10." and insert "8."

Page 6, line 24, delete "11." and insert "9."

Page 6, line 28, delete "12." and insert "10."

Page 6, line 30, delete "13." and insert "11. (a)".

Page 6, between lines 32 and 33, begin a new paragraph and insert:
"(b) To receive a credit under this chapter, a taxpayer must have the amount of the taxpayer's expenditures for a renewable energy system certified by the office of energy and defense development. The office of energy and defense development may not certify the amount of an expenditure if the certification would result in the amount of tax credits awarded under this chapter exceeding the amount of tax credits permitted under subsection (a).

Sec. 12. The office of energy and defense development shall implement procedures for issuing the certifications required under section 11 of this chapter."

Page 6, line 33, delete "14." and insert "13."

Page 9, line 1, after "municipal wastes," insert "food wastes,".

Page 9, delete lines 7 through 10, begin a new paragraph and insert:

"Sec. 4. As used in this chapter, "Indiana fuel" means either of the following:

(1) Any of the following when the fuel is gasified, liquefied, or

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methanized:

(A) Biomass produced in Indiana.

(B) Indiana coal.

(C) Petroleum coke produced in Indiana.

(D) Oil shale located in Indiana.

(2) Coal mine methane when used in the production of power."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Tax and Fiscal Policy.

(Reference is to SB 525 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 10, Nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 525, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Page 1, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 2. IC 6-3.1-28-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) If the amount of the credit determined under this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry over the excess to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit. **A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this chapter."**

Page 2, line 16, after "\$20,000,000" insert "**for all taxpayers for all taxable years,**".

Page 2, line 16, after "of" insert "**tax credits for**".

Page 2, delete lines 23 through 42, begin a new paragraph and

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insert:

"SECTION 4. IC 6-3.1-29-15, AS AMENDED BY P.L.122-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) **If the corporation decides to award a tax credit under this chapter to a taxpayer, and** subject to section 16 of this chapter, the amount of the credit to which a taxpayer is entitled for a qualified investment in an integrated coal gasification powerplant is equal to the sum of the following:

- (1) Ten percent (10%) of the taxpayer's qualified investment for the first five hundred million dollars (\$500,000,000) invested.
- (2) Five percent (5%) of the amount of the taxpayer's qualified investment that exceeds five hundred million dollars (\$500,000,000) only if the facility is dedicated primarily to serving Indiana retail electric utility consumers.

(b) Subject to section 16 of this chapter, the amount of the credit to which a taxpayer is entitled for a qualified investment in a fluidized bed combustion technology is equal to the sum of the following:

- (1) Seven percent (7%) of the taxpayer's qualified investment for the first five hundred million dollars (\$500,000,000) invested.
- (2) Three percent (3%) of the amount of the taxpayer's qualified investment that exceeds five hundred million dollars (\$500,000,000).

SECTION 5. IC 6-3.1-29-19, AS AMENDED BY P.L.122-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) **If the corporation decides to award a tax credit under this chapter to an applicant,** the corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

- (1) A detailed description of the project that is the subject of the agreement.
- (2) The first taxable year for which the credit may be claimed.
- (3) The maximum tax credit amount that will be allowed for each taxable year.
- (4) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.
- (5) If the facility is an integrated coal gasification powerplant, a requirement that the taxpayer shall pay an average wage to its employees at the integrated coal gasification powerplant, other than highly compensated employees, in each taxable year that a tax credit is available, that equals at least one hundred twenty-five percent (125%) of the average county wage in the county in which

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the integrated coal gasification powerplant is located.

(6) For a project involving a qualified investment in a coal gasification powerplant, a requirement that the taxpayer will maintain at the location where the qualified investment is made, during the term of the tax credit, a total payroll that is at least equal to the payroll that existed on the date that the taxpayer placed the integrated coal gasification powerplant into service.

(7) A requirement that:

(A) one hundred percent (100%) of the coal used:

(i) at the integrated coal gasification powerplant, for a project involving a qualified investment in an integrated coal gasification powerplant; or

(ii) as fuel in a fluidized bed combustion unit, in a project involving a qualified investment in a fluidized bed combustion technology, if the unit is dedicated primarily to serving Indiana retail electric utility consumers;

must be Indiana coal; or

(B) seventy-five percent (75%) of the coal used as fuel in a fluidized bed combustion unit must be Indiana coal, in a project involving a qualified investment in a fluidized bed combustion technology, if the unit is not dedicated primarily to serving Indiana retail electric utility consumers.

(8) A requirement that the taxpayer obtain from the commission a determination under IC 8-1-8.5-2 that public convenience and necessity require, or will require:

(A) the construction of the taxpayer's integrated coal gasification powerplant, in the case of a project involving a qualified investment in an integrated coal gasification powerplant; or

(B) the installation of the taxpayer's fluidized bed combustion unit, in the case of a project involving a qualified investment in a fluidized bed combustion technology.

(b) A taxpayer must comply with the terms of the agreement described in subsection (a) to receive an annual installment of the tax credit awarded under this chapter. The corporation shall annually determine whether the taxpayer is in compliance with the agreement. If the corporation determines that the taxpayer is in compliance, the corporation shall issue a certificate of compliance to the taxpayer."

Delete pages 3 through 8.

Page 9, delete lines 1 through 2.

Page 9, line 10, after "wood wastes" insert ",".

Page 9, line 10, delete "and residues," and insert "**including wood**

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residues, forest thinnings, mill residue wood, clean construction and demolition waste (but excluding treated or painted lumber),".

Page 9, line 40, delete "or".

Page 9, line 41, delete "." and insert ";".

Page 9, between lines 41 and 42, begin a new line block indented and insert:

"(5) a corporation organized under IC 8-1-13; or

(6) a corporation organized under IC 23-17-1 that:

(A) is an electric cooperative; and

(B) has at least one (1) member that is a corporation organized under IC 8-1-13."

Page 10, line 5, delete "and".

Page 10, line 6, after ";" insert **"and"**.

Page 10, between lines 6 and 7, begin a new line block indented and insert:

"(4) IC 6-2.3 (the utility receipts tax);".

Page 10, line 16, delete "office;" and insert **"corporation;"**.

Page 10, between lines 32 and 33, begin a new line block indented and insert:

"(4) Against the taxpayer's liability incurred under IC 6-2.3 (the utility receipts tax)."

Page 10, line 33, delete "The" and insert **"(a) If the corporation decides to award a tax credit under this chapter to a taxpayer, the"**.

Page 10, line 33, after "which" delete "a" and insert **"the"**.

Page 10, line 34, delete "lesser of the following:" and insert **"product of:**

(1) the amount of the taxpayer's qualified investment; multiplied by

(2) ten percent (10%).

(b) The total amount of tax credits awarded under this chapter may not exceed fifty million dollars (\$50,000,000) for all taxpayers and all taxable years."

Page 10, delete lines 35 through 39.

Page 11, between lines 6 and 7, begin a new paragraph and insert:

"(c) If the credit allowed by this chapter is available to a member of an affiliated group of corporations filing a consolidated return under IC 6-2.3-6-5 or IC 6-3-4-14, the credit shall be applied against the state tax liability of the affiliated group."

Page 11, delete lines 14 through 15, begin a new line block indented and insert:

"(2) in the case of a pass through entity described in:

(A) section 7(1), 7(2), 7(3), or 7(4) of this chapter, the

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percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled;
or

(B) section 7(5) or 7(6) of this chapter, the relative percentage of the corporation's patronage dividends allocable to the member for the taxable year."

Page 11, line 28, delete "person" and insert "A taxpayer".

Page 11, line 39, delete "The" and insert "If the corporation decides to award a tax credit under this chapter to an applicant, the".

Page 11, line 40, delete "an" and insert "the".

Page 11, line 40, after "applicant" insert ".".

Page 11, line 40, delete "that is awarded a credit under this chapter."

Page 12, line 32, delete "19." and insert "20."

Page 12, line 36, delete "18" and insert "19".

Page 12, delete lines 39 through 42, begin a new paragraph and insert:

"SECTION 10. IC 8-1-8.8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) As used in this chapter, "renewable energy resources" means alternative sources of renewable energy, including the following:

- (1) Energy from wind.
- (2) Solar energy.
- (3) Photovoltaic cells and panels.
- (4) Dedicated crops grown for energy production.
- (5) ~~Organic waste~~ Biomass (as defined by IC 6-3.1-34-1).
- (6) Hydropower from existing dams.
- (7) Fuel cells.
- (8) Energy from waste to energy facilities producing steam not used for the production of electricity.

(b) Except for energy described in subsection (a)(8), the term does not include energy from the incinerations, burning, or heating of any of the following:

- (1) Waste wood.
- (2) Tires.
- (3) General household, institutional, commercial, industrial lunchroom, office, or landscape waste.
- (4) Construction or demolition debris."

Delete pages 13 through 14.

Page 15, delete lines 1 through 3.

Page 15, line 7, delete "IC 6-3.1-31, IC 6-3.1-32, IC 6-3.1-33, and".

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Page 15, line 7, delete "all".

Page 15, line 8, delete "apply" and insert "**applies**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 525 as printed February 2, 2007.)

KENLEY, Chairperson

Committee Vote: Yeas 11, Nays 0.

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